

Application No. 09/476,385
Docket 4960-29720
December 17, 2007

RECORD OF INTERVIEW

Applicants, through the attorney identified below, thank Examiner Ella Colbert for granting Applicants a telephone interview on December 12, 2007.

Pursuant to 37 C.F.R. § 1.133(b), the following is submitted as a complete written statement of the reasons presented at the interview as warranting favorable action. The following statement is intended to comply with the requirements of MPEP § 713.04 and expressly sets forth: (A) a brief description of the nature of any exhibit shown or any demonstration conducted; (B) identification of the claims discussed; (C) identification of specific prior art discussed; (D) identification of the principal proposed amendments of a substantive nature discussed; (E) the general thrust of the principal arguments; (F) a general indication of any other pertinent matters discussed; and (G) the general results or outcome of the interview, if appropriate.

On December 11, 2007, the undersigned contacted and left a message with the Examiner to discuss the Office Action of October 18, 2007 and obtain clarification of the 35 U.S.C. § 112 rejections contained therein. The Examiner returned the undersigned's telephone call on December 12, 2007. (A) No exhibits were shown or discussed; (B) all claims subject to the 35 U.S.C. § 112 rejection were generally discussed, with specific reference being made to claims 46 and 93; (C) no specific prior art was discussed; (D) no proposed amendments were officially presented, but the claim amendments presented in this paper are consistent with the discussion; (E) the general thrust of the discussion was as set forth below in the following paragraphs; (F) no other matters were discussed; and (G) no official agreements were reached regarding the claims, but the Examiner indicated that amendments consistent with the amendments presented in this paper would likely overcome the rejections.

The amendments herein and comments that follow are intended to be consistent with the discussion during the interviews.

In the event that the foregoing record is not considered complete and accurate, the Examiner is respectfully requested to bring any incompleteness or inaccuracy to the attention of the undersigned.

REMARKS/ARGUMENTS

This Amendment is made in response to the Office Action of October 18, 2007. Claims 46–68 and 93–117 are pending in this application and have been examined on the merits.

The Examiner's indication of allowable subject matter in claims 46–68 and 93–117 is noted with appreciation.

In this Amendment, independent claims 46 and 93 have been amended to address various issues raised by the Examiner. Dependent claims 65, 66, 114, and 115 have also been amended to address issues raised by the Examiner. Additionally, although not discussed by the Examiner, dependent claims 64 and 113 have been amended to place them in better form and remove any possible future confusion.

This Amendment is believed to have corrected all remaining deficiencies so that a Notice of Allowance can be promptly issued.

The following headings correspond to like headings in the Office Action:

Claim Objections

Claims 93 and 114 were objected to because of minor informalities. Specifically, the Examiner indicated that claim 93 recites "sellers", but should recite "seller". Accordingly, claim 93 has been amended to address this objection.

Additionally, the Examiner indicated that claim 114 is in improper format for a method claim because each claim limitation should begin with a verb ending in "ing." Claim 114 has been amended in response to this objection, and should now be compliant.

It is believed that the foregoing amendments have addressed all of the claim objections made by the Examiner. However, further claim amendments relating to claim rejections under 35 U.S.C. § 112 are discussed below.

Claim Rejections – 35 U.S.C. § 112

Claims 46, 65, 66, 93, 114, and 115 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

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matter which the Applicants regard as their invention. Specifically, the Examiner indicated that claim 46 recites “receipt of transaction information, information . . . the transaction amount, instructions . . .” Correspondingly, the Examiner asserted that a word appears to be missing between “transaction information” and “information” and between “transaction amount” and “instructions” so as to make the claim vague as written. The Examiner also asserted that claims 65, 66, 93, 114, and 115 contain similar problems.

In response to these rejections, Applicants have amended claims 46, 65, 66, 93, 114, and 115 to render them more easily readable. Words are not missing from these claim limitations, as suggested by the Examiner. However, these claims have been reworded in the hope that they will be more easily understood. Additionally, although not cited by the Examiner, claims 64 and 113 follow similar grammatical structures to the identified claims, and therefore they have also been amended to avoid any possible future rejections and move the case quickly to allowance.

The Examiner also rejected claim 93 as lacking sufficient antecedent basis. The Examiner stated that “[c]laim 93 recites the limitation ‘a buyer’ in the second line” and that “[t]he first time that ‘buyer’ is mentioned it should be ‘a buyer’ and every time thereafter it should be ‘the buyer’.” The Examiner also asserted that “[t]he same goes for ‘a seller’ and ‘a payment instrument’.” Accordingly, claim 93 has been amended such that after “a buyer” and “a seller” are first referenced, every subsequent buyer and seller is referred to as “the buyer” and “the seller.”

However, with regard to “payment instrument,” the Applicants do not understand the objection to the claim wording, and thus this requirement is hereby traversed. In claim 93, the term “a payment instrument” is first referred to in line 10 of the claim, and is referred to as “the payment instrument” at every point thereafter. There are multiple terms that incorporate the words “payment instrument,” such as “payment instrument registration information” and “payment instrument processor,” but these terms are separate and distinct from the “payment instrument” itself. Therefore, it is unclear how this perceived antecedent basis problem can be remedied.

In an effort to comply with the Office Action, however, and in an attempt to move the case more quickly to allowance, Applicants have added the phrase “via the payment instrument”

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into the last element of the claim. Hopefully this amendment, in conjunction with the discussion above, will satisfactorily respond to the Examiner's rejection.

Accordingly, it is believed that the foregoing amendments have addressed all of the claim rejections made by the Examiner, and have thus placed all claims in condition for allowance. Such allowance is earnestly and respectfully solicited.

Allowable Subject Matter

In the Office Action, the Examiner indicated that claims 46–68 and 93–117 contained allowable subject matter. This indication of allowable subject matter is noted with appreciation. It is believed that the amendments made herein overcome all remaining objections and rejections and should place such claims in condition for allowance.

Pursuant to MPEP § 1302.14, the following comments by the Applicants are provided so that the record is clear that the Applicants do not necessarily agree with the reasons given by the examiner for allowing this application – Applicants believe that the claims are patentable for such reasons and for other reasons as well. Although the Applicants appreciate the indication of allowance, these comments are believed necessary so as to negate any presumption of acquiescence to those reasons and any negative inferences that may flow therefrom.

The Examiner's statement of reasons indicated that claims 46 and 93 recited "querying the shipping service tracking database to determine whether the goods have been delivered to the buyer; indicating based at least in part on information from the shipping service database that the goods have been delivered to the buyer and determining if the goods have been acceptably delivered to the buyer as of an indicated delivery date; and determining in response that the goods have been acceptably delivered to the buyer as of the indicated delivery date, effecting completion of the transaction by communicating an instruction to the payment instrument processor to make payment to the seller." The Examiner also indicated that dependent claims 47–68 and 94–117 were also considered allowable because of their dependency on allowable base claims.

While the Applicants do not dispute this statement as a reason for allowance, and with the understanding the claims do not read exactly as indicated above, Applicants would like the

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record to be clear that the claims include various elements and steps which form part of a patentable overall combination of elements and/or process steps, and that the claims should not be viewed as allowable solely because of the recited statement.

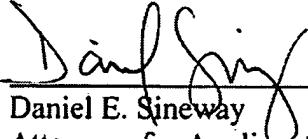
CONCLUSION

For the foregoing reasons, it is respectfully submitted that independent claims 46 and 93, as amended, and their respective dependent claims, have utility, are novel and non-obvious in view of the references, and should be allowable. The foregoing is presented as a full and complete response to the Office Action mailed October 18, 2007, and is believed to have placed all claims in condition for allowance. Such action is courteously solicited. If any issues remain that can be resolved by telephone, the examiner is respectfully requested to contact the undersigned at 404-364-7421.

It is now believed that the application is in condition for allowance and such allowance is respectfully requested.

Respectfully submitted,

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